

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, January 5, 2004

Division One

**A100418 -- The People v. Mark W. Allen.**

The matter is remanded to the trial court for the purpose deciding defendant's cruel and unusual punishment argument. In all other respects, the judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A104720 -- Larry Barnes v. Elaine Hyatt.**

By the Court: Appellant having failed to procure the record on appeal within the time allowed or within any valid extensions of time, and having failed to show good cause for relief from default, the appeal filed November 10, 2003, is dismissed. (See Cal. Rules of Court, rule 8(b)(1).) Kline, P.J.

**A102085 -- The People v. Michael Marcellus Hallock.**

By the Court: Appellant having filed an abandonment of appeal in this court, the appeal is dismissed and the remittitur is to issue forthwith. Kline, P.J.

Division Three

**A099494 -- Emma L. Smith, et al. v. Union Bank of California, et al.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Monday, January 5, 2004 (continued)

Division Four

**A099851 -- The People v. Robert Frank Poole.**

The appeal is dismissed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J.  
(Not for Publication.)

Tuesday, January 6, 2004

Division One

**A100222 -- In re Luis G., a Person Coming Under the Juvenile Court Law. The People v. Luis G.**

**A100453 -- In re Alicia S., a Person Coming Under the Juvenile Court Law. The People v. Alisia S.**

The jurisdictional and dispositional orders are affirmed. Stein, Acting P.J.  
We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A104044 -- Ginbinez Tessema Ayele v. Kaiser Foundation Health Plan, Inc., et al.**

The appeal is dismissed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J.  
(Not for Publication.)

**A103770 -- In re Virginia H., a Person Coming Under the Juvenile Court Law. The People v. Virginia H.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed.  
Kline, P.J.

**A103969 -- In re the Marriage of David and Sandy Jones.**

By the Court: Appellant having filed an abandonment of appeal in this court, the appeal is dismissed and the remittitur is to issue forthwith. Kline, P.J.

Wednesday, January 7, 2004

Division Two

**A101227 -- The People v. Jon Vincent Juarez.**

**A102470 -- In re Jon Vincent Juarez, on Habeas Corpus.**

The sentencing order is affirmed. The petition for writ of habeas corpus is denied. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

**A102408 -- The People v. Julien Vincent Lagman.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A100174 -- Victor Trinchese v. Pirelli Power Cables and Systems USA, LLC.**

The judgment is affirmed. Respondent shall recover its costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A101269 -- The People v. Merideth Morton and Robert Morton.**

By the Court: Order Modifying Opinion and Certifying Opinion For Publication. The opinion in the above-entitled matter filed on December 31, 2003, was inadvertently not certified for publication in the Official Reports. To correct this inadvertence, it is now ordered that the opinion be published in the Official Reports. Further the opinion is modified as follows: (See order.) There is no change in the judgment. McGuiness, P.J. (Certified for Publication.)

Division Five

**A101860 -- Nathan J. Turner v. Kinko's Inc.**

The judgment is affirmed. Respondent shall recover its costs. (Cal. Rules of Court, rule 27(a)(1), (2).) Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Thursday, January 8, 2004

Division Two

**A100050 -- Lexington Insurance Company v. Keller & Gannon  
Engineers & Architects.**

By the Court: The petition for rehearing is denied. (Lambden, J. would grant the petition.) Kline, P.J.

**A101211 -- Shawna McGrew v. City and County of San Francisco.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A104805 -- The People v. Tariq Mustafaa.**

By the Court: The petition to transfer the above-entitled case to the California Court of Appeal, First Appellate District, pursuant to Rule 64 of the California Rules of Court is denied. Kline, P.J.

Division Four

**A102518 -- City of Morgan Hill et al. v. Bay Area Air Quality  
Management District et al.; Calpine Incorporated et al., R.P.I.**

The trial court clerk has advised us that no judgment has been entered in that court. Thus, we must dismiss the purported appeal. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

**A098704 -- Ryan Gutierrez et al. v. Autowest, Inc., et al.**

The Court: Order Modifying Opinion. On the court's own motion, it is ordered that the opinion filed herein on December 9, 2004, be modified as follows: (See order.) There is no change in the judgment. Jones, P.J. (Certified for Partial Publication.)

Thursday, January 8, 2004 (continued)

**A098167 -- The People v. Christopher Lee Spurlock.**

By the Court: The opinion in the above-entitled matter filed on December 15, 2003, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports, and it is so ordered. Pursuant to California Rules of Court, rules 976(b) and 976.1, this opinion is certified for publication. Jones, P.J.

Friday, January 9, 2004

Division One

**A101279 -- Daryl R. Ross v. Janice L. Ross et al.**

Accordingly, the judgment is affirmed. The parties are to bear their own costs on appeal. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Four

**A098608 -- F. Alioto Company, Inc. v. City and County of San Francisco.**

**A099537 -- F. Alioto Company, Inc. v. City and County of San Francisco.**

We reverse that portion of the trial court's summary (A098608) and declaratory (A099537) judgments interpreting paragraph 22 of the Lease as establishing an unconditional duty on the tenant's part to repair the substructure. In all other respects the judgments are affirmed. (A098608, A099537.) Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A101704 -- In re Aria L. et al., Persons Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Jaden L. et al.**

The order terminating parental rights and finding the children adoptable is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A101872 -- Pacific Gas & Electric Company v. Workers' Compensation Appeals Board et al. WCAB No. BAK 135832**

The ruling of the WCAB is annulled. The case is remanded to the WCAB so it can reconsider the matter in light of this opinion. Jones, P.J. We Concur: Simons, J., Gemello, J. (Certified for Publication.)

Friday, January 9, 2004 (continued)

**A099046 -- The People v. Brian James Schrodt.**

Appellant's conviction under count 1 is reversed and the matter remanded with instructions to enter an amended abstract of judgment. The judgment is otherwise affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)



Monday, January 12, 2004

Division Two

**A099196 -- Janet C. Campbell v. Fireside Thrift Company.**

The order granting attorney fees, filed April 19, 2002, is reversed. This action is remanded to the trial court with instructions to reconsider Class Counsel's motion for an award of attorney fees and costs. On remand, assuming Class Counsel seek an award of fees and costs in the amount of \$225,000 or less, Fireside will be bound by the clear sailing provision in the settlement agreement, and thus precluded from opposing or commenting on the fee application. The trial court shall have jurisdiction to award the full amount of fees and costs requested, or such lesser amount as it may find appropriate, in exercise of its discretion, based on the criteria normally considered in awarding attorney fees following the settlement of a consumer class action. (See *Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at pp. 224, 254-255; see generally *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131-1136 ["lodestar adjustment method" is most commonly used to calculate attorney fee awards].) In determining the amount to be awarded, however, the trial court shall not take into consideration that Objecter Counsel sought and obtained a fee award, or the amount of such fees. The trial court is also directed to include in its order a provision expressly rejecting Class Counsel's request that a portion of Class Counsel's fees be designated as an incentive payment to Campbell, as class representative. In the interests of justice, each party shall bear its own attorney fees and costs on appeal. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Four

**A101504 -- Kofi Opong-Mensah v. City of Hercules et al.**

The purported appeal is dismissed for want of jurisdiction. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Tuesday, January 13, 2004

Division One

**A100942 -- The People v. Christian Williams.**

By the Court: The petition for rehearing, filed by appellant in pro per on January 12, 2004, is denied. Marchiano, P.J.

Division Two

**A093387 -- The People v. Henry Maxie Wheeler.**

**A102427 -- In re Henry Maxie Wheeler, on Habeas Corpus.**

The judgment is reversed. The relief requested in Wheeler's accompanying habeas corpus petition having been granted on direct appeal, the habeas petition is hereby dismissed as moot. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, January 13, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Reardon, Acting P.J., Sepulveda, J. and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Vince Chambers, Bailiff.

A102261      Lupe Banuelos

v.

Saul A. Banuelos

Cause called. In pro per appellant Saul Banuelos teleargued. In pro per respondent Lupe Banuelos argued. Cause submitted.

A101842      Coral Construction

v.

City and County of San Francisco et al.

Cause called. John H. Findley argued for appellant Coral. Scott Emblidge argued for respondents. Cause submitted.

The court adjourned at 11:24 a.m.

Wednesday, January 14, 2004

Division One

**A101157 -- The People v. Gordon Hart.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A101074, A101963 -- In re the Marriage of Daniel P. Hollingworth and Nora L. Reed.**

The March 4, 2003 order, at issue in Appeal No. A101963, therefore, is modified to require Ms. Reed to pay support at the rate of \$492 per month for the period between October 1, 2001, and April 1, 2002. As so modified, the order is affirmed. The order of November 20, 2002, at issue in Appeal No. A101704, is affirmed. Each party will bear that party's own costs on appeal. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A104079 -- Janet Robbins v. Joseph Alibrandi, et al.**

By the Court: The motion to dismiss the appeal, filed November 26, 2003, is granted and the appeal is dismissed. Marchiano, P.J.

Division Two

**A101378 -- In re Robert G., a Person Coming Under the Juvenile Court Law. The People v. Robert G.**

The juvenile court's orders are affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, January 14, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Parrilli J., and C. Turner, Deputy Clerk.

Justice McGuiness announced that the panel for A101235, Moraga-Orinda Fire Protection Dist., v. Moraga Del Rey Homeowners Association, et al, appeal is comprised of Parrilli, J., Corrigan, J and himself, but that Corrigan J., was away from the court and was unavailable for oral argument. All parties were informed that Corrigan J. will have access to and will review the taped proceedings and counsel agreed to waive her personal appearance. The court proceeded with oral argument.

A101235 Moraga-Orinda Fire Protection District, et al.,  
v.  
Moraga Del Rey HomeOwners Association, et al.,  
Cause called and argued by James H. Fleming, counsel for appellant, and  
Diane C. De Felice, counsel for respondent. Cause ordered submitted.

A101241 Talab Qarajah,  
v.  
City Council of the City of East Palo Alto, et al.,  
Cause called and argued by Arnold M. Woods, counsel for appellant, and  
Michael S. Lawson, counsel for respondent. Cause ordered submitted.

A102772 Law Offices of Cary S. Lapidus,  
v.  
City of Wasco, et al.,  
Cause called and argued by Noel Thomas McCartney, counsel for appellant,  
and  
Robert David Links, counsel for respondent. Submission deferred until close  
of business January 16, 2004. Counsel Thomas McCartney to submit letter  
brief in response to respondent's additional citations discussed in oral  
argument on January 14, 2004.

Justice Parrilli announced that the panel for the following appeal is comprised of Corrigan, J., Pollak, J., and herself, but that Justice Corrigan was away from the court and was unavailable for oral argument. All parties were informed that Justice Corrigan would review the taped proceedings. Counsel agreed to waive her presence. The court proceeded with oral argument

A101981    In re Andrew W., et al persons Coming under the Juvenile Court Law.  
Social Services Agency,  
v.  
John W.,  
Cause called and argued by John Wood, appellant in pro per, and Mark Estis,  
counsel for respondent. Cause ordered submitted.  
court adjourned

Wednesday, January 14, 2004 (continued)

Division Four

**A101801 -- The People v. Jonathan Micah Gardner.**

In light of our conclusion to reverse two of the convictions, defendant's other contention—that the consecutive sentences were improperly imposed—is rendered moot. The judgment of conviction is affirmed as to Count 3, and reversed as to Counts 5 and 6. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, January 15, 2004

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and B. Robbins, Deputy Clerk.

A102372     In re Daniel A.  
              The People,  
              v.  
              Daniel A.  
Cause called and argued by Jeffrey A. Glick, counsel for appellant, and Michael Banister, counsel for respondent. Cause ordered submitted.

A101716     The Regents of the University of California,  
              v.  
              The City and County of San Francisco, et al.  
Cause called and argued by Anthony J. Barron, counsel for appellant, and Donald P. Margolis, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Margulies joined the bench.

A104920     Allan Zaremborg, et al.,  
              v.  
              The Superior Court of Sacramento County;  
              Kevin Shelley, as Secretary of State, etc., et al.  
Cause called and argued by Daniel M. Kolkey, counsel for petitioners; Hiren M. Patel, counsel for real party in interest Attorney General; Roberta B. Johansen, counsel for real parties in interest Senators Burton and Speier; and Randy Riddle, counsel for real party in interest Secretary of State. Cause ordered submitted.

Court recessed until 1:30 p.m.



MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, January 15, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., Margulies, J., and B. Robbins, Deputy Clerk.

- A099497     The People,  
                 v.  
                 Loni Ongolea.  
Cause called and argued by Ernest Norton Tooby, counsel for appellant, and Ann Wathen, counsel for respondent. Cause ordered submitted.
- A101613     Friends of Open Spaces, Ridges and Trails, et al.,  
                 v.  
                 City of Lafayette;  
                 Joel Hynek, et al.  
Cause called and argued by Robert D. Pontelle, counsel for appellants, and David J. Bowie, counsel for respondents. Cause ordered submitted.
- A099228     Dee Kotla,  
A100918     v.  
                 The Regents of the University of California.  
Cause called and argued by Henry Lederman, counsel for appellant, and Ellen Lake, counsel for respondent. Cause ordered submitted.

Court recessed until Friday, January 16, 2004.

Thursday, January 15, 2004

Division Two

**A102573 -- In re Julius B., a Person Coming Under the Juvenile Court Law. The People v. Julius B.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A097894 -- The People v. Dionka Patrice Cook.**

By the Court: It is ordered that the opinion filed herein on December 23, 2003, be modified in the following particulars: (See order.) These modifications do not effect a change in the judgment. Appellant's petition for rehearing is denied. Kline, P.J. (Not for Publication.)

**A100225 -- In re Brad G. and Lauren G., Persons Coming Under the Juvenile Court Law. Del Norte County Department of Social Services v. Christine Marie B., et al.**

The orders appealed from are affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A101604 -- The People v. Bruce Kendall Hawkins.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

**A094228 -- The People v. Linda Bermudez Johnson.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A101800 -- The People v. Carlos Mejia.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Friday, January 16, 2004

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., Margulies, J., and F. Abad, Deputy Clerk.

A101244     Harry K. Vernon,  
                 v.  
                 State of California.  
Cause called and argued by Paul Kleven, counsel for appellant, and Kristian Whitten, counsel for respondent. Cause ordered submitted.

A099184     Susan Walsh,  
                 v.  
                 Jeffrey Fawcett, et al.  
Cause called and argued by Robert Wright, counsel for appellant, and Susan Walsh, cross-appellant in pro per, did not appear for oral argument. Cause ordered submitted.

A100080     Charles L. Garetson, et al.,  
                 v.  
                 Gregory S. Garetson.  
Cause called and argued by Marc L. Sallus, counsel for appellant, Stan Blyth, counsel for respondent William Garetson, Jr. via teleconferencing, and Michael Desmarais, counsel for cross-appellant Charles L. Garetson via teleconferencing. Cause ordered submitted.

Court adjourned.

Friday, January 16, 2004 (continued)

Division Four

**A098938 -- The People v. Isaiah Thompson Bonilla.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A102606 -- Gregory White v. City of Vallejo.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

**A100098 -- The People v. Wilbert Compton III.**

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

Tuesday, January 20, 2004

Division Two

**A098188 -- The People v. Derrick Mitchell.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J.  
(Not for Publication.)

**A100705 -- Ala Singh et al. v. Gurdial Singh et al.**

The judgment is affirmed. Respondents are awarded costs. Lambden, J.  
We Concur: Kline, P.J., Haerle, J. (Certified for Partial Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Tuesday, January 20, 2004

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

At this point in the proceedings, Presiding Justice Kline announced that the panel for the first two cases would be himself and Justices Haerle and Ruvolo, the panel for the third case would be himself and Justices Lambden and Ruvolo and the panel for the last case would be himself and Justices Haerle and Lambden.

- A090177      The People  
A102598      v.  
                Ramon Hernandez  
                In re Hernandez, on Habeas Corpus  
                Causes called and argued by Richard Such, counsel for appellant and Amy Haddix, Deputy Attorney General, counsel for respondent. Causes ordered submitted.
- A100514      Insurance Commissioner  
                Golden Eagle Insurance Co.  
                v.  
                Ebimoto Properties  
                Cause called and argued by Gregory Brittain, counsel for appellant and Richard Edwards, counsel for respondent. Cause ordered submitted.
- A099345      Jack Mannie, Jr.  
                v.  
                Scott Norton  
                Cause called and argued by Lorraine Walsh, counsel for appellant and Joel Halverson, counsel for respondent. Cause ordered submitted.

A101829     Dan Hamburg, et al.  
                 v.  
                 Wal-Mart Stores, Inc., et al.  
Cause called and argued by Mark E. Merin, counsel for appellants and  
Ryan Dunn, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J., Ruvolo,  
J. and S. Graham, Deputy Clerk.

A103029     Franca Bannerman, et al.  
                 v.  
                 Edward Reidy, et al.  
Cause called and argued by Andrew Zacks, counsel for appellants and  
Stephen L. Collier, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Justice Kline left the bench and Justice  
Haerle joined the bench.

A101894     The People  
                 v.  
                 Timothy Douglas Morse  
Cause called and argued by Rodney Jones, counsel for appellant and Ron  
Niver, Deputy Attorney General, counsel for respondent. Cause ordered  
submitted.

A103399     Peter Fimrite, et al.  
                 v.  
                 Deborah Grossberg  
Cause called and argued by Jeffrey Niesen, counsel for appellant and  
Elizabeth Brekhus, counsel for respondent. Cause ordered submitted.

Court recessed until Wednesday, January 21, 2004 at 9:30 a.m.

Tuesday, January 20, 2004 (continued)

Division Four

**A086991 -- Patricia Henley v. Philip Morris Inc.**

The judgment is affirmed in all respects except as to the amount of punitive damages. With respect to that issue, the judgment is modified to reduce the award to \$9 million dollars provided plaintiff files a timely consent to such reduction in accordance with rule 24(d), California Rules of Court. If plaintiff does not file such consent, the judgment is reversed with respect to the amount of punitive damages only and remanded for a new trial on that issue. The parties shall bear their own costs on appeal. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Certified for Publication.)

Division Five

**A101939 -- In re Vinnie V., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Anthony V.**

The order of the trial court is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)



Wednesday, January 21, 2004

Division One

**A104626 -- Rachel Holton v. James B. Kiesel.**

By the Court: Respondent's motion to dismiss the appeal is granted. The appeal is dismissed. Marchiano, P.J.

**A104007 -- The People v. Ryker William Schenck.**

The order declaring appellant not presently competent to stand trial and committing him to Atascadero State Hospital for treatment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A096451 -- Stephen J. Barrett et al. v. Ilena Rosenthal.**

The order granting the special motion to strike pursuant to section 425.16 is vacated insofar as it applies to appellant Polevoy; in all other respects the order is affirmed. The matter is remanded to the trial court for further proceedings consistent with this opinion. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Partial Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Wednesday, January 21, 2004

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Lambden, J. and I. Santos, Deputy Clerk.

- A101788     Mary C. Keitel,  
                 v.  
                 George W. Heubel et al.  
Cause called and argued by Brian Dinday, counsel for appellant, and Thomas Trapani, counsel for respondent. Cause ordered submitted.
- A091444     Leslie Whiteley et al.,  
                 v.  
                 Philip Morris USA Inc., et al.  
Cause called and argued by Joseph H. Escher, counsel for appellant, and Daniel U. Smith, counsel for respondent. Cause ordered submitted.
- A102282     The People,  
                 v.  
                 Luis Alberto Santana.  
Cause called and argued (via teleconference) by Eric Liberman, counsel for appellant, and Jeff Bryant, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

**COURT ADJOURNED.**

Wednesday, January 21, 2004 (continued)

Division Three

**A102772 -- Law Offices of Cary S. Lapidus v. City of Wasco et al.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

**A101241 -- Talab Qarajah v. City Council of The City of East Palo Alto and City of East Palo Alto.**

Because, as reflected above, substantial evidence supports the facts relied on by the City and the trial court, we affirm the dismissal of appellant's petition for a writ of administrative mandate. (Cf. *id.*, at pp. 817, 824.) Appellant to bear costs of appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A101981 -- In re AW, et al. Persons Coming Under the Juvenile Court Law. Contra Costa County Social Services Agency v. JW.**

The orders dated January 10, 2003, are affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A100545 -- The People v. Michael Wallstrom.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

**A102261 -- In re the Marriage of Lupe M. Banuelos and Saul A. Banuelos.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, January 21, 2004 (continued)

Division Five

**A098487, A098897 -- Terry Lathrop et al. v. Healthcare Partners Medical Group.**

The matter is remanded to the trial court with directions to modify the judgment in accordance with Civil Code section 3333.2. As so modified, the judgment is affirmed. In the interests of justice, each side is to bear its own costs. Gemello, J. We Concur: Jones, P.J., Simons, J. (Certified for Partial Publication.)

**A100075, A100279 -- Mateel Environmental Justice Foundation v. Edmund A. Gray Co., et al.**

By the Court: It is ordered that the opinion filed on December 22, 2003 is modified as follows: (See order.) The modification does not affect the judgment. The opinion was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Jones, P.J. (Certified for Publication.)

**A103368 -- People v. Bryan Thomas Reed.**

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A102297 -- The People v. Sandra Lee Wilkinson.**

The order compelling appellant to pay restitution is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Thursday, January 22, 2004

Division One

**A101716 -- The Regents of the University of California v. The City and County of San Francisco et al.**

The summary judgment in favor of the City is affirmed. Marchiano, P.J.  
We Concur: Stein, J., Swager, J. (Not for Publication.)

**A101449 -- William Staley et al. v. Lee Howard.**

In accordance with the stipulation of the parties at trial, we remand to the trial court with directions to correct the judgment to state that the plaintiffs are entitled to \$3,682 plus 10 percent interest thereon commencing June 10, 1994, and for \$5,065, plus 10 percent interest on the principal commencing August 24, 1994. As corrected, the judgment is affirmed. Respondents are entitled to costs on appeal. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A104920 -- Allan Zaremberg et al. v. The Superior Court of Sacramento County; Kevin Shelley, as Secretary of State, etc., et al., R.P.I.**

The superior court erroneously prohibited qualification of the referendum for the March 2, 2004, election ballot. By the time the remittitur issues in this case (Cal. rules of Court, rule 26), it will be impossible to certify the measure for the election; however, the inability to place it on the March ballot does not prevent its submission at a succeeding statewide election. (§ 9006.) Therefore, let a peremptory writ of mandate issue commanding respondent, Sacramento County Superior Court, to set aside its orders entered December 12, 2003, in Nos. 03 CS 01745 and 03 CS 01757, and to instead enter new and different orders denying the petition of Senators Burton and Speier and granting the petition of referendum proponents. This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) The parties shall bear their own costs. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

Thursday, January 22, 2004 (continued)

Division Two

**A098384 -- The People v. Casey M. Hatch.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A100482 -- The People v. Michael Robert Heglin.**

The judgment is reversed and the matter remanded for a new sentencing hearing at which the trial court shall exercise its discretion under section 1385 in determining whether to strike the section 12022.1 enhancement or impose the term provided for by that statute. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A103908 -- The People v. Richard Lee Thomas.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Four

**A102999 -- The People v. Curtis Mayo Kimball.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A101173 -- The People v. David Montgomery.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Thursday January 22, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J.; Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A10413     Donald C. Marro, et al.

9

v.

Franchise Tax Board of California

Cause called and argued by Donald Marro, appellant in pro per, and by Kristian D. Whitten, counsel for respondent. Cause ordered submitted.

A09987     The People

9

v.

Antwion Edward Thompson

Cause called and argued by Victor J. Morse, counsel for appellant, and by Sharon G. Birenbaum, counsel for respondent. Cause ordered submitted.

A10110     The People

8

v.

Wade Randall Cartwright

Cause called and argued by Seth E. Howard, counsel for appellant, and by Morris Lenk, counsel for respondent. Cause ordered submitted.

A10171     Rose Butler

4

v.

City and County of San Francisco

Cause called and argued by Kenneth B. Tishgart, counsel for appellant, via teleconference, and by Leonor Noguez, counsel for respondent. Cause ordered submitted.

A10138     Ronald Richardson

4

v.

James L. Barton

Cause called and argued by Raymond S. Lara, counsel for appellant, and by Ronald L. Carello, counsel for respondent. Cause ordered submitted.

- A10138 Estate of Florence Barton, Deceased  
5 Ronald Richardson  
v.  
James L. Barton  
Cause called and argued by Raymond S. Lara, counsel for appellant, and by Ronald L. Carello, counsel for respondent. Cause ordered submitted.
- A09858 John Kockos  
9 v.  
James Gardner  
Cause called and argued by Elaine K. Fresch, counsel for appellant, and by Bradley M. Kass, counsel for respondent. Cause ordered submitted.
- A10006 John Kockos  
4 v.  
James Gardner  
Cause called and argued by Elaine K. Fresch, counsel for appellant, and by Bradley M. Kass, counsel for respondent. Cause ordered submitted.
- A10027 Richard Andrews  
3 v.  
Nicholas Bachko Company, et al.  
Cause called and argued by Lyle C. Cavin, counsel for appellant, and by Joseph W. Klobas, counsel for respondent. Cause ordered submitted.
- A10108 The People  
9 v.  
Ruby Bramgila  
Argument waived by George V. Lazarus, counsel for appellant.
- A10225 Matthew Allen Bowen  
6 v.  
Linuxcare, Inc., et al.  
Cause called and argued by T. Scott Tate, counsel for appellant, and by Terry Anastassiou and Linda Shostak, counsel for respondents. Cause ordered submitted.

Court adjourned at 12:08 p.m.



Friday, January 23, 2004

Division One

**A100469 -- The People v. Kenneth Hendrix.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A101593 -- Patricia Lean-Stewart v. William Rolff et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

**A101774 -- In re Keith M., a Person Coming Under the Juvenile Court Law. The People v. Keith M.**

The orders adjudicating appellant a continued ward of the court and placing him in CYA are affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A101392 -- Patricia M. Waller v. Carl B. Waller; County of Alameda.**

The notice of appeal was premature with respect to the final judgment. The final judgment was taken by stipulation leaving no remaining appealable order or judgment. The purported appeal is dismissed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Friday, January 23, 2004 (continued)

Division Five

**A100075, A100279 -- Mateel Environmental Justice Foundation v. Edmund A. Gray Co., et al.**

By the Court: Correction Order, correcting order issued January 21, 2004. It is ordered that the opinion filed on December 22, 2003 is modified as follows: (See order.) This modification does not affect the judgment. The opinion was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Stevens, Acting P.J. (Certified for Publication.)

**A102061 -- In re Bennie P., a Person Coming Under the Juvenile Court Law. The People v. Bennie P.**

The order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A102004 -- The People v. Kristin Ashley Parrish.**

The order granting probation is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, January 26, 2004

Division One

**A103112 -- The People v. Victor Antonio Gomez.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A099281 -- The People v. Martin Mark Olivas.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A104374 -- In re Keyanna S., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services Dept. v. Patricia B.**

By the Court: The appeal is dismissed. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) Kline, P.J.

Division Five

**A103259 -- The People v. Tommy Lee Anderson.**

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

**A101162 -- The People v. Robert O. Burton.**

The order of the trial court is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Tuesday, January 27, 2004

Division One

**A104421 -- Alice M. v. Alameda County Superior Court; Alameda County Social Services Agency, R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for February 4, 2004. Therefore, our decision is final in this court immediately. (Rule 24(b)(3).) Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A105126 -- Leonard Cooks v. The Superior Court of Contra Costa County; The People of the State of California, R.P.I.**

By the Court:\* We have reached our decision after notice to all parties that we might act by issuing a peremptory writ in the first instance. (*Palma v. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.) The entitlement to relief is obvious, and there is also a compelling urgency as the proceedings are under way. (See *Alexander v. Superior Court* (1993) 5 Cal.4th 1218; *Ng v. Superior Court* (1992) 4 Cal.4th 29.) Accordingly, let a peremptory writ of mandate issue commanding respondent court to vacate its order of December 4, 2003, granting real party in interest's motion to compel discovery and to enter a new and different order in conformance with the views expressed herein. Petitioner's request for stay of the hearing on the order to show cause regarding contempt set for January 29, 2004, is denied as moot. Our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) (Not for Publication.)

\*Before Kline, P.J.; Haerle, J., and Ruvolo, J.

Tuesday, January 27, 2004 (continued)

Division Two

**A100889 -- In re Ivan S., a Person Coming Under the Juvenile Court Law. Del Norte County Department of health and Social Services v. Cherish M. et al.**

The order is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J.  
(Not for Publication.)

Division Four

**A102085 -- The People v. Christopher Marcus Staley.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J.  
(Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, January 27, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., Reardon, J. and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A100560     Roger B. Abbott et al.  
              v.  
              John D. Phillips et al.  
Cause called. Kirk Hulett argued for appellants Abbott et al. Judson Lobdell, Robert Linn, George Newcombe, Kenneth Klein, via telephone conference, and Julie Rottenberg, via telephone conference, argued for respondents. Cause submitted.

At this point, the Court reconstituted itself to include Kay, P.J., Sepulveda, J. and Rivera, J.

A102773     Citizens for Better Streets et al.  
              v.  
              San Francisco Board of Supervisors et al.  
Cause called. Paul F. Utrecht argued for appellants Citizens et al. Susan Cleveland-Knowles argued for respondents. Cause submitted.

At this point, the Court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A096034     People  
              v.  
              Mohammed Haroon Ali  
Cause called. A.J. Kutchins argued for appellant Ali. Bruce Ortega argued for respondent. Cause submitted.

A101002     John G. Ferguson  
                 v.  
                 William M. Carr et al.

Cause called. Scott Kalkin argued for appellant Ferguson. George McLemore argued for respondents via telephone conference. Cause submitted.

The court adjourned at 11:24 a.m.

Wednesday, January 28, 2004

Division One

**A103489 -- In re Andre C., a Person Coming Under the Juvenile Court Law. The People v. Andre c.**

The orders adjudicating appellant a continued ward of the court and placing him at CYA are affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A099228, A100918 -- Dee Kotla v. The Regents of the University of California.**

The judgment is reversed and the case is remanded to the trial court for further proceedings consistent with this opinion. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Certified for Partial Publication.)

**A102633 -- In re Jahiem R., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Rochelle R.**

By the Court: The stay previously imposed by this Court is dissolved. Respondents' motion to dismiss the appeal, filed November 19, 2003, is granted and the appeal is dismissed. Swager, J. Acting P.J.

Division Two

**A101519 -- The People v. Nathan Gregory Banks.**

The judgment of conviction is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A102063 -- In re Blanca F., a Person Coming Under the Juvenile Court Law. The People v. Blanca F.**

Appellant was represented by counsel throughout the proceedings. There was no sentencing error. There are no legal issues that require further briefing. Accordingly, the dispositional order and judgment are affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)



Wednesday, January 28, 2004 (continued)

**A102363 -- In re Raymond M., a Person Coming Under the Juvenile Court Law. The People v. Raymond M.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, January 28, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Corrigan J., Pollak J., and C. Turner, Deputy Clerk.

A097648 Cause called and argued by Dennis Patrick Riordan, counsel for appellant, and Bruce Ortega, counsel for respondent. Cause ordered submitted.  
Justice Parrilli took her place on the bench.  
Justice McGuiness stated that the panel on the following will be comprised of Justice Parrilli, Justice Pollak and himself.

A098450 Steven Duncan, et al.,  
v.  
Waste Management Industrial Services, Inc.  
Cause called and argued by James Smith counsel for appellant, and Joel Liberson, counsel for respondent. Cause ordered submitted.

Justice Pollak left the bench.

A099442 Jodi L. Beloff,  
v.  
The Brita Products Company, et al.,  
Cause called and argued by Brian Newcomb, counsel for appellant, and Steven A. Zalesin, counsel for respondent. Cause ordered submitted.

Justice McGuiness left the bench and Justice Pollak returned to the bench.

A100590 In re Colleen S.,  
The People,  
v.  
Colleen S.,  
Cause called and argued by Susan Kathleen Kahn, counsel for appellant, and Martin S. Kaye, counsel for respondent. Cause ordered submitted.

court adjourned

Wednesday, January 28, 2004 (continued)

Division Four

**A103091 -- The People v. Christopher Lee Tanuz.**

The judgment is modified to delete the order that appellant have “no contact” with the victim and, as so modified, the judgment is affirmed. The trial court is directed to issue an amended abstract of judgment in accordance with the foregoing and to forward a certified copy to the California Department of Corrections. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A102249 -- Estate of Patricia Marie Bolton Allen, Deceased.**

The order is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A097252 -- The People v. Lucan Guy Keisner et al.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Thursday, January 29, 2004

Division Two

**A101762 - Luis Walters Camacho et al. v. Robert Mellett.**

The trial court's order denying Landlord's special motion to strike in its entirety is vacated, and the case is remanded to the trial court with instructions to enter an order denying Landlord's special motion to strike only with respect to Tenants' causes of action for breach of contract, breach of the covenant of good faith and fair dealing, fraud, and breach of the covenant of quiet enjoyment (breach of warranty of quiet possession), and granting it with respect to all of the remaining causes of action. The trial court shall determine the amount of attorney fees and costs incurred by Landlord in making the motion that is reasonably attributable to those causes of action on which Landlord prevailed, and shall award such fees and costs to Landlord under section 425.16, subdivision (c). (See *Lafayette Morehouse, Inc. v. Chronicle Publishing Co.* (1995) 39 Cal.App.4th 1379, 1382-1384 [prevailing defendant on motion to strike entitled to attorney fees and costs only on motion to strike, not on entire suit].) In the interests of justice, parties shall each bear their own costs and attorney fees on appeal. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A102550 -- James Chaffee v. San Francisco Library Commission et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication.)

**A101347 -- The People v. Felipe J. Holian.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A100708 -- The People v. Darren S. Kitterman.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Thursday, January 29, 2004 (continued)

**A101374 -- The People v. Van-Albert K. Siegrist.**

The awards of local custody credit and victim restitution are reversed, and the cause is remanded for correction of the credits and restitution proceedings, consistent with the views expressed in this opinion. The orders are otherwise affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A102282 -- The People v. Luis Alberto Santana.**

The sentence is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A102812 -- Oliver L. F. Asser v. Christopher Rea, et al.**

The judgment is affirmed. Respondents shall recover their costs, if any, on appeal. Asser's motions for sanctions are denied. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A102601 -- Oliver L. F. Asser v. Philip Berber.**

The judgment is affirmed. Berber shall recover costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A098450 -- Steven Duncan et al. v. Waste Management Industrial Services, Inc.**

The judgment is affirmed. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A102472 -- The People v. Sergio Stuardo Martinez.**

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Wednesday, January 29, 2004 (continued)

**A101235 -- Moraga-Orinda Fire Protection District, et al. v. Steven Weir, as Recorder, et al.; Moraga Del Rey Homeowners Association, et al., R.P.I.**

The trial court's order is reversed. The matter is remanded for determination of appellants' fees and costs under section 425.16. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Certified for Publication.)

**A102340 -- The People v. Paul Delbert Moser.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A101520 -- The People v. Ronald Leslie Rocolle.**

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

**A100590 -- In re Colleen S., a Person Coming Under the Juvenile Court Law. The People v. Colleen S.**

Since more than one year has elapsed since the entry of the dispositional order on October 4, 2002, the judgment is modified by striking the condition of probation that "t[h]e issuance of the Minor's driving privilege is suspended until further court order," and in all other respects is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Certified for Publication.)

Division Four

**A100806 -- The People v. George Martha.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A103335 -- City of San Rafael v. James A. Gallion.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, January 29, 2004 (continued)

**A101083 -- The People v. Steven Joseph Sanchez.**

The cause is remanded for resentencing in a manner consistent with this opinion. In all other respects, the judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

**A102618 -- The People v. Terrence Phillips.**

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

Friday, January 30, 2004

Division One

**A103217 -- Coastal Auto Mart, Inc. v. Wendell Row.**

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A102471 -- The People v. Anita L. Hanson.**

Because we conclude that section 1202.4 does not permit restitution of ordinary police investigative expenses in these circumstances, the judgment of conviction is modified to strike that portion of the trial court's order requiring payment of \$1,088.12 to the California Highway Patrol. In all other respects, the judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A103702 -- In re Raymel M., a Person Coming Under the Juvenile Court Law. The People v. Raymel M.**

Competent counsel represented defendant at all stages of the proceedings. Substantial evidence supports the court's findings and orders. There was no error in the disposition. There are no issues that require further briefing. All orders are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A102005 -- The People v. Andrew Joseph Markell.**

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A099850 -- The People v. Rene Leonidas Aguilar.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)



Friday, January 30, 2004 (continued)

**A101902 -- The People v. Danny Allen Goodman.**

The order revoking appellant's probation and the sentence imposed are affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A103349 -- The People v. Bruce Knight.**

The order revoking appellant's probation and the sentence imposed are affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A091753 -- The People v. Stephen Charles Nicklas.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A093927 -- The People v. Darrell Tyjuan Allen.**

The judgment is reversed and the matter remanded for a new trial. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Partial Publication.)

**A099442 -- Jodi L. Beloff v. The Brita Products Company, et al.**

The trial court's order denying class certification of plaintiff's warranty claims is affirmed. The order denying class certification of the UCL claims is vacated and remanded for further proceedings in light of *Corbett v. Superior Court* (2002) 101 Cal.App.4th 649. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A104658 -- Buck Center For Research in Aging et al. v. Westworth Housing Group et al.**

The appeal is dismissed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Friday, January 30, 2004 (continued)

**A099572 -- The People v. John Wesley Duran, Jr.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A101016 -- The People v. Anthony Hickson.**

The appeal is dismissed as moot. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A100163 -- Humboldt Fire Protection District No. 1 v. County of Humboldt et al.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A100793 -- The People v. Genero Lopez-Cruz.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A102930 -- In re Vivian W., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. John W.**

The appeal is dismissed as moot. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

**A100560 -- Roger B. Abbott et al. v. Bernard Ebberts et al.**

The order quashing service is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A096034 -- The People v. Mohammed Haroon Ali.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Friday, January 30, 2004 (continued)

**A102151 -- The CIT Group/Equipment Financing, Inc. v. Super DVD, Inc., et al.**

The order issuing the RTO is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Certified for Publication.)

**A101002 -- John G. Ferguson v. William M. Carr, a Minor, etc.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A103226 -- McClure Electric, Inc. v. Pamela Paschall.**

The appeal is dismissed. The motion for sanctions is denied, but respondent shall recover costs on appeal. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A099004 -- Gary Arnold, Ruth Arnold, and Legion Insurance Co. v. Versa Products, Inc. and Home Depot U.S.A., Inc.**

We reverse the judgment as to the causes of action for strict liability and loss of consortium, affirm the judgment in all other respects, and remand for further proceedings consistent with this opinion. All parties shall bear their own costs on appeal. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A101714 -- Rosemarie Butler v. City and County of San Francisco et al.**

The judgment is reversed only as to the imposition of \$625 in sanctions against attorney Tishgart on October 7, 2002. The judgment is otherwise affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A101108 --The People v. Wade Randall Cartwright.**

The order of March 10, 2003, is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)